

prior to February 19, 1990, will be based on a determination by the Secretary that, for mortgages insured during a specified period, the rate of monetary defaults (as measured by 90 day delinquencies) for mortgages insured under this section exceeds the rate of such monetary defaults for all insured mortgages on one- to four-family properties in the State of New York. A suspension to be imposed after February 18, 1990, will be based on a consideration by the Secretary of the probable costs to the Special Risk Insurance Fund of further commitments to insure under this section, as measured by such factors as the current and projected rate and amount of claims payments, together with other significant current and projected costs as determined by the Secretary, including a review of the actual and projected monetary default rate (as measured by 90 day delinquencies) and the actual and projected rate of lease renewal through negotiation and arbitration.

[52 FR 48201, Dec. 21, 1987, and 53 FR 9869, Mar. 28, 1988, as amended at 54 FR 32970-32971, Aug. 11, 1989; 55 FR 34805, Aug. 24, 1990]

#### § 203.44 Eligibility of advances.

Mortgagees may not make open-end advances under section 225 of the National Housing Act (12 U.S.C. 1715p) in connection with the mortgages insured under this chapter.

[61 FR 36264, July 9, 1996]

#### § 203.45 Eligibility of graduated payment mortgages.

A mortgage containing provisions for varying rates of amortization corresponding to anticipated variations in family income shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this section.

(a) The mortgage may provide that any interest which accrues and which is unpaid pursuant to a financing plan approved by the Secretary, shall be added to the principal obligation of the mortgage.

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor.

(c) The mortgage amount shall not exceed the lesser of:

(1) The limits prescribed by §§203.18, 203.18a, and 203.29; or,

(2) An amount which, when added to all accrued mortgage interest which will be unpaid under a financing plan approved by the Secretary, shall not exceed 97 percent of the appraised value of the property covered by the mortgage as of the date the mortgage is accepted for insurance. However, if the mortgagor is a veteran, the mortgage amount, when added to all accrued mortgage interest which will be unpaid under a financing plan approved by the Secretary, shall not exceed the applicable limits prescribed for veterans in §203.18(a).

(d) The mortgage must contain complete amortization provisions satisfactory to the Secretary requiring monthly payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary. The sum of the payments to principal and/or interest may increase annually for a period of five years at a rate of 2½ percent, 5 percent or 7½ percent or for a period of ten years at a rate of 2 percent or 3 percent. Any required increase in payments shall occur on the anniversary date of the beginning of amortization. On the termination of the period of annual increases of payments, the sum of the payments to principal and interest in each month shall be substantially the same.

(e) The mortgagee shall fully explain to the mortgagor the nature of the obligation undertaken and the mortgagor shall certify that he or she fully understands the obligation.

(f) Sections 203.21 and 203.44 shall not apply to this section.

(g) This section applies only to mortgagors who are to occupy the dwelling as a principal residence (as defined in §203.18(f)(1)). It does not apply to a mortgage that meets the requirements of §§203.18(a)(4), 203.18 (c) through (e), 203.43, 203.43a, 203.43j, or 203.49.

(h) Mortgages complying with the requirements of this section shall be insured under this subpart pursuant to